

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)	ID No. 1802009867
)	In and for Kent County
v.)	
)	RK18-03-0428-01 USC 1 st LIO Rape 1 st (F)
MAHDI R. WILSON,)	RK18-03-0429-01 Robbery 1 st (F)
)	RK18-03-0430-01 Robbery 1 st (F)
Defendant.)	RK18-03-0431-01 PFDCF (F)
)	RK18-03-0432-01 Home Invasion (F)

COMMISSIONER'S REPORT AND RECOMMENDATION

**Upon Defendant's Motion for Postconviction Relief
Pursuant to Superior Court Criminal Rule 61**

Alicia A. Porter, Esquire, Deputy Attorney General, Department of Justice, for the State of Delaware.

Mahdi R. Wilson, *pro se*.

FREUD, Commissioner
May 13, 2020

The defendant, Mahdi R. Wilson ("Wilson"), pled guilty on the first day of his trial following opening arguments, on January 8, 2019 to one count of Unlawful Sexual Contact in the First Degree, as a lesser included charge of Rape in the First Degree, 11 *Del. C.* § 769; two counts of Robbery in the First Degree, 11 *Del. C.* § 832; one count of Possession of a Firearm During the Commission of a Felony, 11 *Del. C.* § 1447A; and one count of Home Invasion, 11 *Del. C.* § 826A. He was also charged with two additional counts of Rape in the First Degree, two counts of Assault

in the Third Degree, one count of Wearing a Disguise During a Felony and one count of Conspiracy in Second Degree. As part of the plea deal the State agreed to enter *nolle prosequis* on the remaining charges and along with the defense recommended a sentence of 108 years incarceration, suspended after 20 years, 17 of which were minimum mandatory followed by varying levels of probation. Wilson was also given credit for time served. Had Wilson gone to trial and been found guilty as charged he faced 62 years minimum mandatory jail time and up to life in prison. At his Final Case Review Wilson rejected a plea offer of 23 years incarceration and chose to proceed to trial. After the opening statements the defense approached the State concerning a plea offer. The State responded by offering the instant plea to 20 years which Wilson accepted after discussion with his attorney. Wilson did not appeal his conviction or sentence to the State Supreme Court. Instead Wilson filed a motion to have his sentence reduced and to withdraw his plea which were denied by this Court. Next, Wilson filed the pending motion for postconviction relief pursuant to Superior Court Criminal Rule 61 on October 15, 2019 in which he alleges, in part, ineffective assistance of counsel.

FACTS

According to the Affidavit of Probable Cause and the transcript of the Suppression hearing, on February 19, 2018 in Dover, Delaware Wilson and an unidentified co-conspirator broke into the victim's residence and proceeded to beat the two male occupants and stole multiple pieces of electronics and other items. Wilson also vaginally raped the female victim twice and forced her to commit oral sex on him. Although Wilson and his accomplice had worn masks as they invaded the home and committed the robbery, Wilson removed his mask prior to raping the female victim and had a conversation with her for several minutes. She was able to

identify Wilson as the perpetrator of the crimes following a photo line-up. Wilson's defense counsel filed a motion to suppress the identification which the court denied following a hearing.

WILSON'S CONTENTIONS

Wilson filed a Motion for Postconviction Relief pursuant to Superior Court Rule 61. In his motion, he raises the following grounds for relief:

- Ground one: Ineffective Assistance of Counsel. I have asked for counsel to do certain things for me I felt important to my case with what evidence I had/have in my defense. I do not believe certain evidence was omitted.
- Ground two: Coerced Confession to Guilty Plea. Counsel advised me she would call my mom (which she confirmed) to see if I should take the plea, but used lies and pressure tactics to get my signature (affidavit from mom). [no affidavit attached]
- Ground three: Suppression of favorable evidence. Lost suppression because counsel did not object to something in which was obvious we should have (transcripts will show proof).

DISCUSSION

Under Delaware law, this Court must first determine whether Wilson has met the procedural requirements of Superior Court Criminal Rule 61(i) before it may

consider the merits of his postconviction relief claim.¹ This is Wilson's first motion for postconviction relief, and it was filed within one year of his conviction becoming final. Therefore, the requirements of Rule 61(i)(1) - requiring filing within one year and (2) - requiring that all grounds for relief be presented in initial Rule 61 motion, are met. None of Wilson's claims were raised at the plea, sentencing, or on direct appeal. Therefore, they are barred by Rule 61(i)(3), absent a demonstration of cause for the default and prejudice. Each of Wilson's grounds for relief are based to some extent on ineffective assistance of counsel; therefore, he has alleged cause for his failure to have raised the claims earlier.

At this point, Rule 61(i)(3) does not bar relief as to Wilson's grounds for relief, provided he demonstrates that his counsel was ineffective and that he was prejudiced by counsel's actions. To prevail on his claim of ineffective assistance of counsel, Wilson must meet the two-prong test of *Strickland v. Washington*.² In the context of a guilty plea challenge, *Strickland* requires a defendant show: (1) that counsel's representation fell below an objective standard of reasonableness; and (2) that counsel's actions were prejudicial to him in that there is a reasonable probability that, but for counsel's error, he would not have pled guilty and would have insisted on going to trial and that the result of a trial would have been his acquittal.³ The failure to establish that a defendant would not have pled guilty and would have proceeded to trial is sufficient cause for denial of relief.⁴ In addition, Delaware courts

¹ *Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991).

² 466 U.S. 668 (1984).

³ *Id.* at 687.

⁴ *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997)(citing *Albury v. State*, 551 A.2d 53, 60 (continued...))

have consistently held that in setting forth a claim of ineffective assistance of counsel, a defendant must make concrete allegations of actual prejudice and substantiate them or risk summary dismissal.⁵ When examining the representation of counsel pursuant to the first prong of the *Strickland* test, there is a strong presumption that counsel's conduct was professionally reasonable.⁶ This standard is highly demanding.⁷ *Strickland* mandates that, when viewing counsel's representation, this Court must endeavor to "eliminate the distorting effects of hindsight."⁸

Following a complete review of the record in this matter, it is abundantly clear that Wilson has failed to allege any facts sufficient to substantiate his claim that his attorney was ineffective. I find trial counsel's affidavit, in conjunction with the record, more credible than Wilson's self-serving claims that his counsel's representation was ineffective. Wilson's counsel clearly denies the allegations.

Wilson was facing the possibility of 62 years minimum mandatory up to life in prison had he been convicted. The sentence and plea were very reasonable under all the circumstances, especially in light of the eyewitness evidence against him. Prior to the entry of the plea, Wilson and his attorney discussed the case. The plea bargain was clearly advantageous to Wilson. Counsel was successful in negotiating

⁴(...continued)
(Del. 1988))(citations omitted).

⁵ See e.g., *Outten v. State*, 720 A.2d 547, 557 (Del. 1998) (citing *Boughner v. State*, 1995 WL 466465 at *1 (Del. Supr.)).

⁶ *Albury*, 551 A.2d at 59 (citing *Strickland*, 466 U.S. at 689).

⁷ *Flamer v. State*, 585 A.2d 736, 754 (Del. 1990)(quoting *Kimmelman v. Morrison*, 477 U.S. 365, 383 (1986)).

⁸ *Strickland*, 466 U.S. at 689.

a beneficial plea bargain with the State even after Wilson rejected the initial plea and the trial had begun. Counsel's representation was certainly well within the range required by *Strickland*. Additionally, when Wilson entered his plea, he stated he was satisfied with defense counsel's performance. He is bound by his statement unless he presents clear and convincing evidence to the contrary.⁹ Consequently, Wilson has failed to establish that his counsel's representation was ineffective under the *Strickland* test.

Even assuming, *arguendo*, that counsel's representation of Wilson was somehow deficient, Wilson must satisfy the second prong of the *Strickland* test, prejudice. In setting forth a claim of ineffective assistance of counsel, a defendant must make concrete allegations of actual prejudice and substantiate them or risk dismissal.¹⁰ In an attempt to show prejudice, Wilson simply asserts that his counsel was ineffective. His statements are insufficient to establish prejudice, particularly in light of the evidence against him. Therefore, I find Wilson's grounds for relief are meritless.

To the extent that Wilson alleges his plea was involuntary, the record contradicts such an allegation. When addressing the question of whether a plea was constitutionally knowing and voluntary, the Court looks to a plea colloquy to determine if the waiver of constitutional rights was knowing and voluntary.¹¹ At the guilty-plea hearing, the Court asked Wilson whether he understood the nature of the

⁹ *Mapp v. State*, 1994 WL 91264, at *2 (Del.Supr.)(citing *Sullivan v. State*, 636 A.2d 931, 937-938 (Del. 1994)).

¹⁰ *Larson v. State*, 1995 WL 389718, at *2 (Del. Supr.)(citing *Younger*, 580 A.2d 552, 556 (Del. 1990)).

¹¹ *Godinez v. Moran*, 509 U.S. 389, 400 (1993).

charges, the consequences of his pleading , and whether he was voluntarily entering the plea. The Court asked Wilson if he understood he would waive his constitutional rights if he entered the plea including the right to suppress evidence; if he understood each of the constitutional rights listed on the Truth-in-Sentencing Guilty Plea Form (“Guilty Plea Form”); and whether he gave truthful answers to all the questions on the form. The Court asked Wilson if he had discussed the his plea and its consequences fully with his attorney. The Court also asked Wilson if he was satisfied with this counsel’s representation. Wilson answered each of these questions affirmatively.¹² I find counsel’s representations far more credible than Wilson’s self-serving, vague allegations.

Furthermore, prior to entering his plea, Wilson signed a Guilty Plea Form and Plea Agreement in his own handwriting. Wilson’s signatures on the forms indicate that he understood the constitutional rights he was relinquishing by pleading guilty and that he freely and voluntarily decided to plead guilty to the charges listed in the Plea Agreement. Wilson is bound by the statements he made on the signed Guilty Plea Form, unless he proves otherwise by clear and convincing evidence.¹³ I confidently find that Wilson entered his plea knowingly and voluntarily and that Wilson’s grounds for relief are completely meritless.

CONCLUSION

I find that Wilson’s counsel represented him in a competent and effective manner and that Wilson has failed to demonstrate any prejudice stemming from the representation. I also find that Wilson’s guilty plea was entered knowingly and

¹² *State v. Wilson*, Del. Super., ID No. 1802009867 (Jan. 8, 2019) Tr. at 2-11.

¹³ *Sommerville*, 703 A.2d at 632.

voluntarily. I recommend that the Court *deny* Wilson's motion for postconviction relief as procedurally barred and completely meritless pursuant to Superior Court Criminal Rule 61(i)(3).

/s/ Andrea M. Freud
Commissioner

AMF/dsc
oc: Prothonotary